

Remarks

Claims 35-42 are pending.

Rejections Under 35 U.S.C. § 101

The Specification has been amended to delete the paragraph beginning on page 10, line 10. A computer readable medium is adequately defined in the preceding paragraph. This amendment removes the language of concern to the Examiner and thereby renders moot the Section 101 rejection of Claims 36 and 40-42.

Rejections Under 35 U.S.C. § 103

Claims 35 and 36 were rejected under Section 103 as being obvious over Fleming (6530018) and Momose (6822753) in view of Edelstein (6378128). The rejection is based on the assertion that Edelstein teaches determining if the computer operating system includes a Windows installer and then taking the claimed action in response to this determination.

Edelstein teaches adding an intelligent install module to the Windows Installer to provide functionality for dynamically creating or modifying the install-set for installing an application program. Edelstein, column 6, lines 32-36. Edelstein does not make any determination that the operating system does or does not include a Windows installer. Rather, Edelstein assumes the Windows Installer exists in the operating system. It necessarily follows, therefore, that Edelstein does not take any action in response to any such determination. Specifically, Edelstein does not teach removing a driver if it is determined the operating system does not include a Windows Installer, or updating a driver if it is determined that the operating system does include a Windows Installer. Indeed, Edelstein doesn't have anything to do with device drivers.

The Examiner asserts that "operable to detect" at column 6, line 29 in Edelstein teaches determining that the operating system does not include a Windows Installer. The Examiner's assertion is not correct. The cited passage refers to "a WINDOWS INSTALLER program module that is operable to detect and install a new application program module 136...." This passage doesn't say anything about determining that the operating system does not include a Windows Installer. Indeed, it is clear that the operating system does include a Windows Installer.

The Examiner asserts that "install a new application program module" at

column 6, line 31 in Edelstein teaches removing a driver provided by the operating system. The Examiner's assertion is not correct. The cited passage refers to "a WINDOWS INSTALLER program module that is operable to detect and install a new application program module 136...." This passage doesn't say anything about removing a device driver or any other programming.

The Applicant respectfully submits that Edelstein really doesn't have any relevance at all to the subject matter of Claims 35 and 36. The rejection of Claims 35 and 36 should be withdrawn.

If the Examiner disagrees, he is respectfully requested to explain how the passages he relies on in Edelstein actually teach the claim limitations, rather than simply quoting the claim element followed by a listing seemingly irrelevant components from Edelstein.

The foregoing is believed to be a complete response to the outstanding Office Action.

Respectfully submitted,

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